

HOUSE BILL 2211

By Russell

AN ACT to amend Tennessee Code Annotated, Title 38, Chapter 6; Title 68, Chapter 102 and Title 71, relative to background checks.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 38-6-106(b), is amended by adding the following after the first sentence:

The Tennessee bureau of investigation may contract with the federal bureau of investigation, another law enforcement agency, or another legally authorized entity to assist in the investigation.

SECTION 2. Tennessee Code Annotated, Section 38-6-106(g), is amended by adding the following after the first sentence:

The Tennessee bureau of investigation may contract with the federal bureau of investigation, another law enforcement agency, or another legally authorized entity to assist in the investigation.

SECTION 3. Tennessee Code Annotated, Section 68-102-308, is amended by deleting subdivisions (c)(3) and (c)(4) and substituting:

(3) Agree to the release of information required for a criminal background investigation by a professional background screening organization or criminal background check services or registry; and

(4) When seeking employment with a public fire agency, supply a fingerprint sample and submit to a criminal history records check to be conducted by the Tennessee bureau of investigation, the federal bureau of investigation, another law enforcement agency, or another legally authorized entity.

SECTION 4. Tennessee Code Annotated, Section 71-3-507(a)(2)(B)(i), is amended by deleting the subdivision and substituting:

(i) The person is a resident of a childcare agency, the person must have the fingerprint-based background review, including juvenile records available to the Tennessee bureau of investigation (TBI), and the registry and perpetrator records reviews, and, if determined necessary by the department, juvenile court records reviews, required by subdivision (a)(2)(A) completed prior to the granting of a license to the childcare agency in which the person resides at the time of initial application; or

SECTION 5. Tennessee Code Annotated, Section 71-3-507(b)(3), is amended by deleting the subdivision and substituting:

(3) The childcare agency shall document in its records the clearance or exclusion letter regarding the person's ability to assume a position for which a background review is required, and the department shall maintain a record of the results of all persons for whom a criminal background history is received.

SECTION 6. Tennessee Code Annotated, Section 71-3-507(b)(5)(B), is amended by deleting "discussion" and substituting "disclosure".

SECTION 7. Tennessee Code Annotated, Section 71-3-507(c)(3), is amended by deleting "in the person's records at the agency and".

SECTION 8. Tennessee Code Annotated, Section 71-3-507(g)(1)(A), is amended by deleting "The results of these inquiries shall be maintained in the person's records." and substituting "The department shall maintain the results of these inquiries.".

SECTION 9. Tennessee Code Annotated, Section 71-3-507(g)(4)(A), is amended by deleting the subdivision and substituting:

(4) The fingerprints of the person shall be submitted to the TBI in the format required by the bureau.

SECTION 10. Tennessee Code Annotated, Section 71-3-507(g)(4)(B), is amended by deleting "requesting entity; and if the report was made to an entity that is licensed by any state agency, the bureau shall also send a copy of the report showing the criminal or juvenile history to the state agency" and substituting "department or relevant state agency".

SECTION 11. Tennessee Code Annotated, Section 71-3-507(g)(4)(D), is amended by deleting the subdivision and substituting:

(D) The results of the inquiry to the TBI or other registry or records review shall be documented in the records of the department.

SECTION 12. Tennessee Code Annotated, Section 71-3-507(h), is amended by deleting the subsection and substituting:

(1)

(A) The department or appropriate state agency as listed in subdivision (g)(1) may require the following persons to submit a disclosure form as set forth in subdivisions (a)(3) and (4), a copy of which the department shall maintain in the department's records as a supplemental method of criminal and juvenile background history review, and agree to release all records involving the following persons relating to the criminal and available juvenile history of the persons:

- (i) For an applicant for employment, for license or operator status, or for substitute or volunteer status with childcare agencies or childcare programs, or with the state agencies or their contractors, as listed in subdivision (g)(1) or with the entities that the state agencies may regulate;
- (ii) For residents of new childcare agencies;
- (iii) For current employees, licensees, operators, substitutes, or volunteers of childcare agencies; or

(iv) For current residents of childcare agencies.

(B) The department or appropriate state agency, as listed in subdivision (h)(1)(A) may then access directly the TBI's Tennessee crime information computer (TCIC) system and conduct a name search of Tennessee criminal and available juvenile history records by using only the information contained on the disclosure form completed pursuant to subdivision (h)(1)(A), or by using other information available to the searching entity.

(2) The results of the search must be maintained in the records of the department and are subject to review by the entities regulating the department.

(3) This subsection (h) does not make voluntary, repeal, or supersede other law that mandates that criminal and juvenile background reviews be conducted on applicants for employment, for license or operator status, for substitute or volunteer service positions, or for resident status. This subsection (h) is supplementary to, and is not in lieu of, mandatory provisions for other statutorily required criminal and juvenile background reviews.

SECTION 13. If a provision of this act or its application to a person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 14. This act takes effect upon becoming a law, the public welfare requiring it.